

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

) ) ) ) ) ) ) )

SECTION NO.: 1.07CV660-wha

## **NOTICE OF REMOVAL**

To the Judges of the United States District Court for the Middle District of Alabama:

Defendant Geneva County Commission respectfully states as follows:


A. An action was commenced against the Geneva County Commission by the filing of a Complaint in the Circuit Court of Geneva County, Alabama, entitled “Shane Gallagher v. Geneva County Commission,” Civil Action No. CV-07-077. The Summons and Complaint was served on Defendant Geneva County Commission on or about June 19, 2007. In the Complaint, the Plaintiff alleges a claim for false arrest and false imprisonment, and that “Defendant’s actions violated 42 U.S.C. § 1983.” The Plaintiff entitles Count Two, implicating 42 U.S.C. § 1983, as “Civil Rights Violation.” (See Complaint, ¶¶ 4-14). A copy of the Summons and Complaint served on the Geneva County Commission is hereby attached to this Notice of Removal, as well as the SJIS report printed on July 19, 2007. Defendant Geneva County Commission is filing a Motion to Dismiss and Brief in Support of its Motion to Dismiss concurrently with this Notice of Removal.

B. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1331. Therefore, this action is one that may be removed to this Court pursuant to 28

U.S.C. § 1441. Supplemental jurisdiction is invoked pursuant to 28 U.S.C. §1367 for all state law claims alleged in the Complaint, to the extent such claims are construed to exist by this Court.

WHEREFORE, PREMISES CONSIDERED, Defendant Geneva County Commission respectfully files this Notice of Removal pursuant to 28 U.S.C. § 1446, removing this action from the Circuit Court of Geneva County, Alabama, to the United States District Court for the Middle District of Alabama.

Respectfully submitted this 19<sup>th</sup> day of July, 2007.

  
C. RICHARD HILL, JR. (HIL045)  
Attorney for Defendant  
Geneva County Commission

OF COUNSEL:  
Webb & Eley, P.C.  
7475 Halcyon Pointe Drive (36117)  
Post Office Box 240909  
Montgomery, Alabama 36124-0909  
(334) 262-1850 - Telephone  
(334) 262-1772 - Fax  
[rhill@webbeley.com](mailto:rhill@webbeley.com)


**CERTIFICATE OF SERVICE**

I hereby certify that on this the 19<sup>th</sup> day of July, 2007, I filed the foregoing with the Clerk of the Court and mailed, postage prepaid, a copy of the same to the following:

J. E. Sawyer, Jr., Esquire  
203 Edwards Street  
Enterprise, Alabama 36330

and that I have served the foregoing Notice of Removal by sending a copy of the same via Federal Express, fees paid, upon:

Honorable Gale Laye  
Geneva County Circuit Court Clerk  
200 N. Commerce Street  
Geneva, Alabama 36340

  
OF COUNSEL

State of Alabama Unified Judicial System  Form C-34      Rev 5/88	<b>FILED</b> <i>6-19-07</i>	<b>SUMMONS</b> <b>- CIVIL -</b>	MAY 25 2007 <i>Dale Lay</i> CLERK	Case Number  CV-2007-097
IN THE _____ CIRCUIT COURT OF _____ COUNTY				
Plaintiff      SHANE GALLAGHER		v. Defendant      GENEVA COUNTY COMMISSION, ET AL.		
NOTICE TO      GENEVA COUNTY COMMISSION, 200 NORTH COMMERCE STREET, GENEVA, AL 36340				
THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE PLAINTIFF OR PLAINTIFF'S ATTORNEY _____ J.E. SAWYER, JR. _____ WHOSE ADDRESS IS      203 SOUTH EDWARDS STREET, ENTERPRISE, ALABAMA 36330				
THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN      30      DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.				
TO ANY SHERIFF OR ANY PERSON AUTHORIZED by the Alabama Rules of Civil Procedure:				
<input checked="" type="checkbox"/> You are hereby commanded to serve this summons and a copy of the complaint in this action upon the defendant.				
<input type="checkbox"/> Service by certified mail of this summons is initiated upon the written request of _____ pursuant to the Alabama Rules of Civil Procedure.				
Date <i>June 19, 2007</i>		Clerk/Register <i>Dale Lay</i> By: <i>J</i>		
<input type="checkbox"/> Certified Mail is hereby requested.				
_____ Plaintiff's/Attorney's Signature				
RETURN ON SERVICE:				
<input type="checkbox"/> Return receipt of certified mail received in this office on _____ (Date)				
<input type="checkbox"/> I certify that I personally delivered a copy of the Summons and Complaint to _____ County, Alabama on _____ (Date)				
_____ Date		_____ Server's Signature		
_____ Address of Server		_____ Type of Process Server		

IN THE CIRCUIT COURT FOR GENEVA COUNTY, ALABAMA

FILED IN OFFICE

SHANE GALLAGHER, )

Plaintiff, )

VS. )

CASE NO. CV-2007-022 M

GENEVA COUNTY COMMISSION, an )  
Alabama political subdivision, and X, Y, and Z, )  
who are entities or individuals who live in the )  
Geneva area or Geneva County and all whose )  
names when mentioned will be substituted )  
by amendment. )

Defendants. )

MAY 25 2007  
*Salvatore*  
CLERK

**COMPLAINT**  
**Count I: False Arrest**

1. Plaintiff, SHANE GALLAGHER, is an adult resident of the City of Altha, County of Calhoun, State of Florida.
2. Defendant(s), Geneva County Commission, (hereinafter referred to as "County") is a political subdivision organized and existing under the laws of the State of Alabama.
3. Defendant(s), X, Y, and Z, are believed to be residents of the State of Alabama and/or business registered in a State other than Alabama but doing business in the State of Alabama, whose names are otherwise unknown at the present time but will be substituted by amendment when ascertained.
4. On the 23<sup>rd</sup> day of September 2005, said Plaintiff was falsely imprisoned at the Gulf Shores City Jail for a Geneva County warrant that was issued regarding the Plaintiff allegedly scamming residents in Geneva County. A bond was set at \$2,500.00.

5. Said warrant was issued for Plaintiff's arrest based on false information that Geneva County law enforcement had.

6. Plaintiff was processed by the Gulf Shore authorities who advised Geneva County that they would process and allow the Plaintiff to post a bond for my release according to procedure.

7. Plaintiff was detained in the Gulf Shores City Jail for four (4) days while waiting for an agent from Geneva County to pick him up.

8. While Plaintiff was detained in the Gulf Shores City Jail, the Geneva County Sheriff's Department had been made aware that the warrant issued for Plaintiff's arrest was in error and that he was not the person law enforcement was looking for.

9. In October 2005 the State of Alabama filed a motion against Plaintiff wherein the case was dismissed due to mistaken identity.

10. On the 21<sup>st</sup> day of September 2006, and pursuant to the provisions of Alabama Code 1975, Plaintiff presented to the Defendant(s), GENEVA COUNTY COMMISSION, a claim for the damages sustained by Plaintiff's as a result of the matters alleged above.

WHEREFORE, Plaintiff demands judgment against Defendant(s) in a reasonable sum to be determined by the jury in this cause, but within the jurisdictional limits of this Court, plus costs and such other and further relief as deemed appropriate by this Court.

**Count II**  
**Civil Rights Violation**

11. Plaintiff adopt by reference Paragraphs one through eleven of Count I, and would further aver:

12. Defendant(s) are now, and at all times material to this matter duly appointed,

employed, and acting law enforcement officers and/or employees of the City of Geneva, Alabama; Defendant(s) are also residents of said city and county.

13. This court has jurisdiction of this cause under and by virtue of Title 28 of the U.S.C. Section 1343, et, al.

14. Defendant's actions violated 42 U.S.C. §1983.

15. Each of the alleged acts of Defendant(s) were allegedly done by said Defendant(s) and each of them, not as individuals, but under the color and pretense of the statutes, ordinances, regulations, customs, and usages of the State of Alabama, the City of Geneva, the County of Geneva, and the federal constitution, and under the authority of their offices as law enforcement officers for such city.

16. On the 23<sup>rd</sup> of September 2005, Plaintiff was detained in the Gulf Shores City Jail, where he was wrongly accused of being involved in scamming local residents in Geneva County. Defendants refused to allow Plaintiff to post bond although the Court set same.

17. Plaintiff was placed in Gulf Shores City Jail for four days due to a warrant being issued for Plaintiff's arrest.

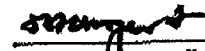
18. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1331 and 1343.

19. Plaintiff avers that he was caused to suffer emotional distress, economic damages and damages to Plaintiff's reputation due to being detained against his will.

WHEREFORE, Plaintiff demands judgment against Defendant(s) in a reasonable sum to be determined by the jury in this cause, but within the jurisdictional limits of this Court, plus costs and such other and further relief as deemed appropriate by this Court.

Dated this 21 day of ~~February~~ <sup>March</sup> 2007.

  
Shane Gallagher, Plaintiff

  
J. E. Sawyer, Jr. (SAW004)  
Attorney for Plaintiff  
203 South Edwards Street  
Enterprise, AL 36330  
334/347-6447 Office  
334/347-8217 Fax

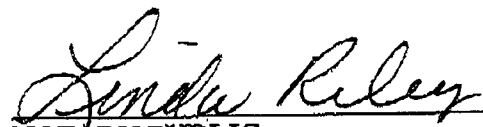
STATE OF TENNESSEE )  
COUNTY OF DICKSON )

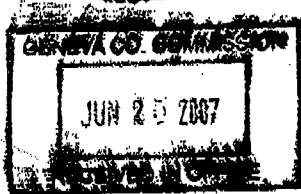
Before me, the undersigned authority, personally appeared SHANE GALLAGHER, who being by me first duly sworn deposes and says that he has read the foregoing Complaint and that the matters therein contained are true and correct.

Date this the 21 day of MARCH 2007.

SEAL



  
NOTARY PUBLIC  
My Commission Expires: 6/24/08



Rec 9:30 am  
by Fred Hamer

STATE OF ALABAMA

NOTICE OF CLAIM

COUNTY OF GENEVA

\*  
\*  
\*

TO: GENEVA COUNTY

Personally appeared before me, the undersigned authority in and for said County and State, Shane Gallagher, who being by me first duly sworn, makes this affidavit pursuant to the provisions of Alabama Code, 1975, as amended, and affiant says as follows:

My name is Shane Gallagher, and I am a resident of Calhoun County, Florida.

You are hereby notified that on or about the 23<sup>rd</sup> of September 2005, I was falsely arrested and falsely imprisoned for a period of four (4) days. The Geneva County law enforcement authority did not take proper steps to ensure the identity of the person or person(s) they were looking for that had allegedly been involved in scamming local residents.

Based on false information, Geneva County law enforcement had a warrant issued for my arrest. While I was in Gulf Shores, Alabama for catastrophe response due to the recent hurricanes, I was in Wal-Mart to purchase a .22 caliber rifle, but I was not eligible to purchase said rifle based on my background check. Having had no criminal history, I went to the local police department to have a background check done. It was discovered that a warrant had been issued out of Geneva County, Alabama and bond had been set at \$2,500.00. Gulf Shore law enforcement authorities advised the Geneva County Sheriff's department that it would process me and allow me to post a bond for my release according to procedure. The Geneva County Sheriff's department adamantly refused and instructed said arresting authority to detain me until they arrived. I sat in jail for four (4) days waiting for an agent from Geneva County to pick me up.

*City Police*




During my imprisonment, the Geneva County Sheriff's department had been made aware that the warrant for my arrest was in error and that I was not the person law enforcement was looking for. The arresting officer in Gulf Shores spoke with me and got information from me to show that Geneva County authorities had the wrong person. This information was shared with the Geneva County Sheriff's department. They refused to listen or accept any information to clear my identity before the situation got out of hand. This same information was presented to the State one month later. On motion by the State that "this matter resulted from mistaken identity" my case was dismissed.

As a result of said false arrest and false imprisonment, I was caused to suffer professionally in my career. I have further suffered economic damages and damage to my reputation.

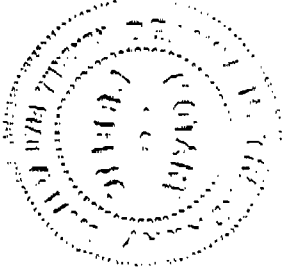
Based on aforesaid facts I hereby claim that the Geneva County Sheriff's department and its agents, servants, representatives and employees are liable for the damages I have sustained due to the actions by the Geneva County authorities to falsely arrest and falsely imprison me against my will.

You are hereby further notified that this Notice of Claim is given for the purpose of compliance with the Alabama Code. If any entity receiving notice of this claim has any knowledge of any other person, firm, corporation or other entity who or which may be responsible or share responsibility for the damages claimed herein, please inform the claimant's attorney of the name and address of said entity immediately.

  
Shane Gallagher  
4713 Lake Shore Blvd  
Altha, FL 32421

a/ 176

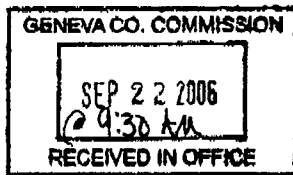
SWORN TO AND SUBSCRIBED before me this the 21<sup>st</sup> day of September 2006.



Anna M. Leadbetter

Notary Public

My Commission Expires: 07/23/07



J.E. Sawyer

J.E. Sawyer, Jr. (SAW004)

Attorney at Law

203 South Edwards Street

Enterprise, AL 36330

(334) 347-6447

Koua Jones,  
County Administrator

SEP 22 2006  
10:30 AM



alacourt.com's

### Alabama SJIS Case Detail

Settings		Parties		Case Action Summary		Witness List		Financial		Images		Consolidate	
<b>Case</b>													
County	34	Case Number	CV 2007 000077 00	JID	PBM	Trial	J						
Style	SHANE GALLAGHER V GENEVA COUNTY COMMISSION												
Code	CVXX	Type	OTHER CV CASE	Filed	05252007	Track							
Amount		Status	ACTIVE	Plaintiffs	001	Defendants	001						
DJID		Court Action	00000000			For							
Damages-Comp		Damages-Pun		Damages-Gen		No Damages							
Trial Days		Lien											
<b>Settings</b>													
Date 1		Que 1		Time 1		Description							
Date 2		Que 2		Time 2		Description							
Date 3		Que 3		Time 3		Description							
Date 4		Que 4		Time 4		Description							
Cont Date		Why						Cont #					
RevJmt		Admin Date		Why									
Appeal Date		CRT		Case	0000 000000 00								
TBNV1		TBNV2		SDST		DTYP							
Comment 1													
Comment 2													
<b>Party 1</b>													
Party	C 001	Name	GALLAGHER SHANE	Type	INDIVIDUAL								
INDX	D GENEVA COUNT	ANAM		JID	PBM								
SSN		Address 1		Sex									
DOB		Address 2		Race									
Country	US	City	AL 00000 0000	Phone	334 000 0000								
Atty 1	SAWYER JOSEPH E JR	Atty 2		Atty 3		Atty 4							
Atty 5		Atty 6											
Issued		Type		Reissue		Type							
Return		Type		Return		Type							
Service		Type		Serv On		By							
Answer		Type		NS Not		NA Not							
Warrant		Type		Arrest									
CACT		Date		For		Exep	O						
AMT		Cost		Other		Satisfied							
Comment													
<b>Party 2</b>													
Party	D 001	Name	GENEVA COUNTY COMMISSION	Type	INDIVIDUAL								
INDX	C SHANE GALLAG	ANAM		JID	PBM								
SSN		Address 1	200 NORTH COMMERCE ST	Sex									
DOB		Address 2		Race									
Country	US	City	GENEVA AL 36340 0000	Phone	334 000 0000								
Atty 1		Atty 2		Atty 3		Atty 4							
Atty 5		Atty 6											
Issued	06192007	Type	S SHERIFF	Reissue		Type							
Return		Type		Return		Type							
Service	06192007	Type	S SERVED PERSON	Serv On		By							
Answer		Type		NS Not		NA Not							
Warrant		Type		Arrest									
CACT		Date		For		Exep	O						
AMT		Cost		Other		Satisfied							
Comment													
<b>Case Action Summary</b>													
Date	Time Code	Comments	Operator										

05252007	1036	TEXT	COMPLAINT FILED BY SAWYER FOR PLTF	JAF
06192007	1028	FILE	FILED THIS DATE: 05/25/2007 (AV01)	JAF
06192007	1029	ORIG	ORIGIN: INITIAL FILING (AV01)	JAF
06192007	1029	SCAN	CASE SCANNED STATUS SET TO: N (AV01)	JAF
06192007	1029	TDMN	JURY TRIAL REQUESTED (AV01)	JAF
06192007	1029	STAT	CASE ASSIGNED STATUS OF: ACTIVE (AV01)	JAF
06192007	1029	ASSJ	ASSIGNED TO JUDGE: P. BEN MCLAUCHLIN, JR. (AV01)	JAF
06192007	1033	PART	GALLAGHER SHANE ADDED AS C001 (AV02)	JAF
06192007	1033	ATTY	LISTED AS ATTORNEY FOR C001: SAWYER JOSEPH E JR	JAF
06192007	1034	PART	GENEVA COUNTY COMMISSION ADDED AS D001 (AV02)	JAF
06192007	1034	SUMM	SHERIFF ISSUED: 06/19/2007 TO D001 (AV02)	JAF
06192007	1036	TEXT	S/C ISSUED TO GCSO FOR SERVICE ON DEF	JAF
06212007	1134	SERC	SERVICE OF SERVED PERSON ON 06/19/2007 FOR D001	DET
06212007	1134	TEXT	-COPY OF SERVICE TO SAWYER	DET